

OPEN MEETING ITEM
ORIGINAL



0000018840

COMMISSIONERS
JEFF HATCH-MILLER - Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES



ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

DATE: April 8, 2005

DOCKET NO: W-01445A-04-0773

TO ALL PARTIES:

APR - 8 2005

DOCKETED BY

KD

Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern. The recommendation has been filed in the form of an Opinion and Order on:

ARIZONA WATER COMPANY
(CC&N EXTENSION)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

APRIL 18, 2005

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for Open Meeting to be held on:

MAY 3 AND 4, 2005

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931.

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AZ CORP COMMISSION
DOCUMENT CONTROL

BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 JEFF HATCH-MILLER, Chairman
4 WILLIAM A. MUNDELL
5 MARC SPITZER
6 MIKE GLEASON
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE APPLICATION OF
9 ARIZONA WATER COMPANY, AN ARIZONA
10 CORPORATION, TO EXTEND ITS EXISTING
11 CERTIFICATE OF CONVENIENCE AND
12 NECESSITY AT CASA GRANDE, PINAL
13 COUNTY, ARIZONA.

DOCKET NO. W-01445A-04-0773

DECISION NO. _____

OPINION AND ORDER

10 DATE OF HEARING:

March 23, 2005

11 PLACE OF HEARING:

Phoenix, Arizona

12 ADMINISTRATIVE LAW JUDGE:

Marc E. Stern

13 APPEARANCES:

Robert Geake, Vice President and General
Counsel, on behalf of Arizona Water Company;
and

Mr. Tim Sabo, Staff Attorney, Legal Division,
on behalf of the Utilities Division of the Arizona
Corporation Commission.

16 **BY THE COMMISSION:**

17 On October 27, 2004, Arizona Water Company ("Company" or "Applicant"), filed an
18 application for an extension of its Certificate of Convenience and Necessity ("Certificate") with the
19 Arizona Corporation Commission ("Commission") to provide public water utility service to various
20 parts of Casa Grande, Pinal County, Arizona.

21 On November 12, 2004, the Commission's Utilities Division ("Staff") issued a notice of
22 deficiency that the application had not met the sufficiency requirements of A.A.C. R14-2-411(C).

23 On January 12, 2005, Staff issued notice that the application had met the sufficiency
24 requirements of A.A.C. R14-2-411(C).

25 On January 14, 2005, by Procedural Order, a hearing was scheduled for March 23, 2005 and
26 other dates were set for publication of notice and procedural filing by parties to the proceeding.

27 On March 23, 2005, a full public hearing was convened before a duly authorized
28

Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. The Company and Staff appeared with counsel. At the conclusion of the hearing, the matter was taken under advisement pending submission of a Recommended Opinion and Order to the Commission.

* * * * *

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. Pursuant to authority granted by the Commission, the Company is an Arizona corporation which is engaged in the business of providing water service to approximately 65,000 customers in portions of Gila, Navajo, Cochise, Maricopa, Pima, Yavapai, Coconino and Pinal Counties, Arizona.

2. On October 27, 2004, the Company filed an application for an extension of its Certificate for its Casa Grande system¹ in the City of Casa Grande ("City") to provide service to an area which is marked Exhibit A, attached hereto and incorporated herein by reference.

3. Notice of the application was provided in accordance with the law.

4. On February 9, 2005, Staff filed its Staff Report recommending conditional approval of the application following a hearing.

5. The Company has been requested to provide water service to an additional one-half square mile of land in the City owned by the developer of Villago, a residential subdivision. The parcel is located within and surrounded by Applicant's existing certificated service area.

6. Applicant projects that future customer growth in the extension area will result in approximately 1,000 new customers at build-out.

7. The Company's Casa Grande system has ample backbone plant to serve the extension area described in Exhibit A.

8. To serve the requested area, the Company will enter into a main extension agreement with the developer and connect its existing distribution system to new transmission and distribution

¹ Applicant provides water service to approximately 17,000 customers on its Casa Grande system by utilizing 14 wells and 14.2 millions gallons of storage capacity. This system is part of the Company's Western Group of operating systems.

1 mains constructed with a refundable advance paid by the developer.

2 9. The Company will submit, for Staff approval, a copy of the main extension agreement
3 which has not yet been finalized to cover the project's approximate cost of \$500,000 financed
4 through a refundable advance with the developer. The Company expects to refund to the developer
5 10 percent of the water revenues derived from the subdivision mains for 10 years.

6 10. No other municipal or public service corporations provide water service in the
7 proposed service area described in Exhibit A.

8 11. The Company's franchise for Casa Grande expired on January 18, 2003 and since the
9 Company has been unable to secure approval of a City Council resolution which authorizes a new
10 franchise, the Company has been operating by using the City's right-of-way permits which the City
11 issues to non-franchise holders when construction takes place in City rights-of-way. These permits
12 require the Company to pay a City construction inspection fee equal to three percent of the
13 construction costs of each project in City rights-of-way rather than the franchise fee under the expired
14 agreement. In the interim, the Company is continuing to negotiate a new franchise with Casa Grande.

15 12. The Company will provide service to the extension area at its existing rates and
16 charges on file with the Commission for its Casa Grande system.²

17 13. Staff reviewed the water production and storage capacity of Applicant's Casa Grande
18 system and believes that it has or will have adequate facilities and the technical expertise to provide
19 service in the requested extension area.

20 14. According to the Staff Report, the Company is in full compliance with the rules of the
21 Arizona Department of Environmental Quality ("ADEQ") and is providing water which meets the
22 requirements of the Safe Drinking Water Act and the MCL requirements. However, the arsenic
23 levels for certain of the Company's Casa Grande system wells exceed the new 2006 arsenic
24 maximum contaminant level ("MCL") of 10 parts per billion ("ppb"). As a result, the Company is in
25 the process of developing a treatment plan for its Casa Grande system to meet the new arsenic
26 standard by utilizing a cost recovery method consistent with that recently approved for the

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28 ² The Company presently has a rate case pending for its Casa Grande system in Docket No. W-01445A-04-0650.

1 Company's Northern Group in Decision No. 66400 (October 14, 2003).

2 15. The Company is current on the payment of its property and sales taxes, and is in
3 compliance with its operating and filing requirements which are subject to the Commission's
4 jurisdiction.

5 16. As a result of Decision No. 66849 (March 19, 2004), the Company filed a revised
6 form of Curtailment Tariff which was approved by Staff and is utilized for all of the Company's
7 systems.

8 17. Staff believes that there is a public need and necessity for water service to the
9 requested extension area and that the issuance of an extension to Applicant's Certificate is in the
10 public interest.

11 18. Staff recommended that the Commission approve the Company's application subject
12 to the following conditions:

- 13 • that the Company charge its existing rates and charges for its Casa Grande
14 system in the proposed extension area;
- 15 • that the Company file, within 365 days of the effective date of this Decision,
16 with the Commission's Docket Control and the Commission's Utilities
17 Division Director ("Director"), a copy of the developer's Certificate of
Assured Water Supply issued by the Arizona Department of Water Resources
for the area described in Exhibit A;
- 18 • that the Company file, within 365 days of the effective date of this Decision,
19 with the Commission's Docket Control and the Director, a copy of an executed
main extension agreement; and
- 20 • that the Company file, within 365 days of the effective date of this Decision,
21 with the Commission's Docket Control and the Director, a copy of the
Certificate of Approval to Construct issued by the Arizona Department of
Environmental Quality for the construction of mains in the extension area.

22 19. Staff further recommends that the Commission's approval of an extension of the
23 Certificate of the Company should be rendered null and void without further Order from the
24 Commission should the Company fail to meet any of the above conditions within the time specified.

25 20. Staff's recommendations in Findings of Fact Nos. 18 and 19 are reasonable.

26 CONCLUSIONS OF LAW

27 1. Applicant is a public service corporation within the meaning of Article XV of the
28 Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-252.

1 2. The Commission has jurisdiction over the Company and the subject matter of the
2 application.

3 3. Notice of the application was provided in accordance with the law.

4 4. There is a public need and necessity for water utility service in the proposed service
5 area described in Exhibit A.

6 5. Applicant is a fit and proper entity to receive an extension of its Certificate.

7 6. The application to extend the Certificate for the area described in Exhibit A should be
8 granted subject to the conditions set forth in Findings of Fact Nos. 18 and 19 above.

9 ORDER

10 IT IS THEREFORE ORDERED that the application of Arizona Water Company for an
11 extension of its Certificate of Convenience and Necessity for the operation of a water utility in the
12 area more fully described in Exhibit A be, and is hereby approved, provided that Arizona Water
13 Company complies with the conditions as set forth in Findings of Fact No. 18 hereinabove.

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IT IS FURTHER ORDERED that in the event that Arizona Water Company does not timely file copies of the required documentation as described in Findings of Fact No. 18, then the extension of its Certificate of Convenience and Necessity shall be deemed to be null and void without further Order of the Arizona Corporation Commission.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 2005.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____

DISSENT _____

MES:mlj

1 SERVICE LIST FOR: ARIZONA WATER COMPANY

2 DOCKET NO. W-01445A-04-0773

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4 Robert W. Geake
5 Arizona Water Company
6 P.O. Box 29006
7 Phoenix, AZ 85015

8 Christopher Kempley, Chief Counsel
9 Legal Division
10 ARIZONA CORPORATION COMMISSION
11 1200 West Washington Street
12 Phoenix, Arizona 85007

13 Ernest Johnson, Director
14 Utilities Division
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Legal Description - Phase 1 Boundary

That portion of Section 28 & 33, Township 5 South, Range 6 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona, described as follows:

BEGINNING at the Southwest corner of said Section 33, said corner bears South 89 Degrees 59 Minutes 04 Seconds West, a distance of 2,648.88 feet from the South quarter corner of said Section;

Thence North 00 Degrees 07 Minutes 16 Seconds West, along the West line of said Section 33, a distance of 2,640.55 feet to the West quarter corner of said Section 33;

Thence North 00 Degrees 07 Minutes 46 Seconds West, along the West line of said Section 33, a distance of 2,640.48 feet to the Northwest corner of said Section 33, said corner also being the Southwest corner of said Section 28;

Thence North 00 Degrees 18 Minutes 38 Seconds West, along the West line of said Section 28, a distance of 438.12 feet;

Thence North 89 Degrees 44 Minutes 38 Seconds East, a distance of 1,534.53 feet to a point on a non-tangent curve, concave to the Northwest, having a radius of 35.00 feet, the center of which bears North 00 Degrees 15 Minutes 35 Seconds West;

Thence northerly along said curve, through a central angle of 90 Degrees 00 Minutes 00 Seconds, an arc length of 54.98 feet to a point of tangency;

Thence North 89 Degrees 44 Minutes 25 Seconds East, a distance of 80.00 feet to a point on a non-tangent curve, concave to the Northeast, having a radius of 35.00 feet, the center of which bears North 89 Degrees 44 Minutes 25 Seconds East;

Thence easterly along said curve, through a central angle of 90 Degrees 00 Minutes 00 Seconds, an arc length of 54.98 feet, to a point of tangency;

Thence South 00 Degrees 15 Minutes 35 Seconds East, a distance of 110.00 feet to a point on a non-tangent curve, concave to the Southeast, having a radius of 35.00 feet, the center of which bears South 00 Degrees 15 Minutes 35 Seconds East;

Thence southerly along said curve, through a central angle of 90 Degrees 00 Minutes 00 Seconds, an arc length of 54.98 feet, to a point of tangency;

Thence South 00 Degrees 15 Minutes 35 Seconds East, a distance of 210.64 feet to a point on a tangent curve, concave to the East, having a radius of 1,640.00 feet, the center of which bears North 89 Degrees 44 Minutes 25 Seconds East;

Thence southerly along said curve, through a central angle of 13 Degrees 13 Minutes 12 Seconds, an arc length of 378.40 feet, to a point of tangency;

Thence South 13 Degrees 28 Minutes 47 Seconds East, a distance of 480.47 feet, to a point on a tangent curve, concave to the Southwest, having a radius of 1,739.51 feet, the center of which bears South 76 Degrees 31 Minutes 13 Seconds West;

Thence southeasterly along said curve, through a central angle of 04 Degrees 55 Minutes 09 Seconds, an arc length of 149.35 feet to a point of non-tangency;

Thence South 89 Degrees 59 Minutes 17 Seconds East, a distance of 642.77 feet;

Thence South 89 Degrees 25 Minutes 28 Seconds East, a distance of 63.47 feet;

Thence South 86 Degrees 50 Minutes 34 Seconds East, a distance of 65.41 feet;

Thence South 84 Degrees 03 Minutes 51 Seconds East, a distance of 65.41 feet;

Thence South 81 Degrees 17 Minutes 08 Seconds East, a distance of 65.41 feet;

Thence South 78 Degrees 20 Minutes 04 Seconds East, a distance of 72.85 feet;

Thence South 75 Degrees 52 Minutes 02 Seconds East, a distance of 44.00 feet;

Thence South 73 Degrees 24 Minutes 01 Seconds East, a distance of 72.84 feet;

Thence South 70 Degrees 26 Minutes 58 Seconds East, a distance of 65.41 feet;

Thence South 67 Degrees 40 Minutes 15 Seconds East, a distance of 65.41 feet;

Thence South 64 Degrees 53 Minutes 32 Seconds East, a distance of 65.41 feet;

Thence South 62 Degrees 06 Minutes 49 Seconds East, a distance of 65.41 feet;

Thence South 59 Degrees 20 Minutes 06 Seconds East, a distance of 65.41 feet;

Thence South 56 Degrees 35 Minutes 31 Seconds East, a distance of 64.71 feet;

Thence South 55 Degrees 31 Minutes 50 Seconds East, a distance of 554.00 feet;

Thence South 34 Degrees 28 Minutes 10 Seconds West, a distance of 735.00 feet;

Thence South 21 Degrees 42 Minutes 09 Seconds West, a distance of 173.28 feet;

Thence South 21 Degrees 42 Minutes 09 Seconds West, a distance of 166.11 feet;

Thence South 34 Degrees 28 Minutes 10 Seconds West, a distance of 1,634.34 feet to a point on a non-tangent curve, concave to the Northeast, having a radius of 1,220.00 feet, the center of which bears North 27 Degrees 30 Minutes 07 Seconds East;

Thence easterly along said curve, through a central angle of 30 Degrees 28 Minutes 55 Seconds, an arc length of 649.05 feet, to a point of tangency;

Thence South 02 Degrees 34 Minutes 51 Seconds East, a distance of 80.00 feet to a point on a non-tangent curve, concave to the Southeast, having a radius of 15.00 feet, the center of which bears South 02 Degrees 35 Minutes 57 Seconds East;

Thence southerly along said curve, through a central angle of 87 Degrees 35 Minutes 10 Seconds, an arc length of 22.93 feet, to a point of tangency;

Thence South 00 Degrees 11 Minutes 07 Seconds East, a distance of 274.64 feet to a point on a tangent curve, concave to the West, having a radius of 740.00 feet, the center of which bears South 89 Degrees 48 Minutes 53 Seconds West;

Thence southerly along said curve, through a central angle of 21 Degrees 15 Minutes 17 Seconds, an arc length of 274.50 feet, to a point of tangency;

Thence South 21 Degrees 04 Minutes 10 Seconds West, a distance of 228.92 feet to a point on a tangent curve, concave to the Southeast, having a radius of 660.00 feet, the center of which bears South 68 Degrees 55 Minutes 50 Seconds East;

Thence southerly along said curve, through a central angle of 21 Degrees 05 Minutes 06 Seconds, an arc length of 242.88 feet, to a point of tangency;

Thence South 00 Degrees 00 Minutes 56 Seconds East, a distance of 227.58 feet to a point on a tangent curve, concave to the Northeast, having a radius of 35.00 feet, the center of which bears North 89 Degrees 59 Minutes 04 Seconds East;

Thence southerly along said curve, through a central angle of 90 Degrees 00 Minutes 04 Seconds, an arc length of 54.98 feet, to a point;

Thence South 00 Degrees 01 Minutes 00 Seconds East, a distance of 70.00 feet;

Thence South 89 Degrees 59 Minutes 00 Seconds West, a distance of 75.00 feet;

Thence South 89 Degrees 59 Minutes 04 Seconds West, a distance of 2,648.88 feet to THE POINT OF BEGINNING.

EXCEPT those portions already in Arizona Water Company's Certificate of Convenience and Necessity, described as follows:

The South half of the Northwest quarter of Section 33, Township 5 South, Range 6 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona, and

The Southwest quarter of the Southwest quarter of the Southwest quarter of Section 28, Township 5 South, Range 6 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona, Except any portion lying North of the North boundary line of the above-described Phase 1 Boundary.